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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ARK, DARREN W

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, drawn to a camouflaged termite monitoring device.

Group II, claim(s) 10-16, drawn to a method of monitoring for termites at a site.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the apparatus of Group I can be used in another method such as a method of killing termites with poisoned bait material or a method of exterminating or monitoring of carpenter ant colonies wherein the bait material; and the method of Group II can be performed with another apparatus such as a housing with first and second portions which represent halves of the housing versus a hatch and the remainder of the housing or a housing with first and second portions connected to each other by bolts or screws in a non-hinged manner.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I - Figs. 1-4 without water reservoir;

Species II - Figs. 1-4 with housing 100 defining an additional opening for inserting bait cartridge 475 and without water reservoir;

Species III - Figs. 1-4 with housing 100 configured to have separate engageable portions which may be disengaged in order to insert the bait cartridge 475 in the cavity 300 and then re-engaged to contain the cartridge and without water reservoir;

Species IV - Fig. 4 with water reservoir 600;

Species V - Figs. 5A & 5B with housing 100 configured with first 110 and second 120 portions without water reservoir.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

Species I - claims 1-6 for Group I and claims 10-13, 15, and 16 for Group II;
Species II - claims 1-6 for Group I and claims 10-13, 15, and 16 for Group II;
Species III - claims 1-6 for Group I and claims 10-13, 15, and 16 for Group II;
Species IV - claims 1-7 for Group I and claims 10-16 for Group II; and
Species V - claims 1-6, 8, and 9 for Group I and claims 10-13, 15, and 16 for Group II.

The following claim(s) are generic: claims 1-6 for Group I and claims 10, 11, 13, 15, and 16 for Group II.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species I requires hatch disposed on upper surface of housing and being hinged and without water reservoir not required in Species II-V; Species II requires housing 100 defining an additional opening for inserting bait cartridge 475 and without water reservoir not required in Species I or III-V; Species III requires housing 100 configured to have separate engageable portions which may be disengaged in order to insert the bait cartridge in the cavity and then re-engaged to contain the cartridge and without water reservoir not required in Species I, II, IV, or V; Species VI requires a water reservoir not required in Species I-III or V; and Species V requires a housing configured with first and second portions cooperate to define the cavity not required in Species I-IV.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise

require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/
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Primary Examiner
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DWA